IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 10427 of 1998

Between:

1 Singamsetty Suryachandra Rao S/o Kanakaiah
R/o Ganapavaram Village West Godavari district
2 Singamsetty Padmavathi D/o Suryachandra Rao
R/o Ganapavaram Village, West Godavari district
3 Singamsetty Satyagayathri D/o Subba Rao
R/o Ganapavaram Village, West Godavari district
4 Singamsetty Sri Laxmi Posimamba D/o Subbarao
R/o Ganapavaram Village, West Godavari district
5 Singamsetty Varalaxmi D/o Subbarao
R/o Ganapavaram Village, West Godavari district
6 Singamsetty Prasannalaxmi D/o Subbarao
R/o Ganapavaram Village, West Godavari district
7 Singamsetty Balasuryavenkata Laxmi Narayana Kanakam D/o

Subbarao, R/o Ganapavaram Village, West Godavari district
8 Singamsetty Balanagasiromani W/o Suryachandra Rao
R/o Ganapavaram Village West Godavari district
9 Singamsetty Venkatasiri Sobhana Ranga Minakshi W/o Subba Rao
R/o Ganapavaram Village West Godavari district
10 Ganta Seethamahalakshmi W/o Adinarayana
R/o Ganapavaram Village West Godavari district
11 Singamsetty Subba Rao S/o Kanakaiah
R/o Ganapavaram Village West Godavari district
12 B.Venkata Surya Hymavathi W/o Srinivasa Rao
R/o Ganapavaram Village West Godavari district
13 K.Vankatashwarlu S/o P.Venkaiah
R/o Ganapavaram Village West Godavari district
14 R.Hymavathi W/o K.Ganesham
R/o Darsaparru Village West Godavari district
15 M.Dhanalaxmi W/o Srinivasarao
Tadepalligidem West Godavari district
16 S.Prasanna Laxmi D/o Subba Rao R/o Ganapavaram Village
West Godavari district

... PETITIONERS

AND

1 The District Collector,
Eluru West Godavari,
2 The Superintending Engineer(Drainage)Irrigation Department
Elur, West Godavari District
3 The Executive Engineer (Constructions) Irrigation Department ,
Eluru, West Godavari District
4 The Executive Engineer, (Drainage) irrigation Department
Bhimavaram, West Godavari District
5 The Chairman, Water Users Association
Varadarajapuram , Ganapavaram Mandal,
West Godavari District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a direction, writ or order, one in the nature of Writ of Mandamus: - a) Declaring the action of the Respondents in Digging and Widening the Channel Flowing through the Fields of the petitioners in Ganapavaram, Tadepalligudem and Darsapurru Villages of Ganapavaram Mandal in sy.No.7, 16,24,49 and 32 of Ganapavaram village, 78 and 79 of Kommera village of Ganapavaram Mandal west Godavari District., without any Prior Notice and to help the Respondent No.5 is arbitrary, illegal and malafide: b) Directing the Respondent in the event it is Necessary for Deepening and Widening of the above said channel the petitioners may be given Chance to do the same by their own cost with manual labour instead of Employing the Machinery ; c) Granting all consequential benefits d) Awarding costs.

Counsel for the Petitioners: MR.M.RAMA RAO
Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following:

ORDER:

This writ petition is filed seeking Mandamus a) Declaring the action of the Respondents in Digging and Widening the Channel Flowing through the Fields of the petitioners in Ganapavaram, Tadepalligudem and Darsapurru Village of Ganapavaram Mandal in Sy.No.7, 16,24,49
and 32 of Ganapavaram Mandal west Godavari District, without any prior notice and to help the Respondent No.5 is arbitrary, illegal and malafide: b) Directing the

Respondent in the event it is Necessary for Deepening and Widening of the above said channel the petitioners may be given chance to do the same by their own cost with manual labour instead of employing the machinery ; c) Granting all consequential benefits d) Awarding costs.

2. Heard the learned counsel for the petitioners and the learned Government Pleader for Irrigation, appearing for the respondents.

3. Petitioners, farmers of Ganapavaram, Darsaparru and Tadepalligudem villages, West Godavari District, living on agriculture, cultivating about Ac.2.36 cents, state that there is a drainage-cum-water channel touching their lands that has been laid by the Government more than 100 years back. It is their case that the present channel's width, which carries drainage water as well as irrigation waters to the fields, is about 5 feet and that its depth is also in suitable level for irrigating their fields. While so, petitioners allege that the respondent authorities, under the guise of widening and deepening the channel, are now using machinery like bulldozers, etc., for which purpose, they are as well cutting the trees. It is further alleged that due to the deepening work undertaken by the respondents, the irrigation water does not flow to their fields. According to the petitioners, the deepening work undertaken by the respondents is not at all necessary, as the present depth and width is serving satisfactorily the needs of the ryots. It is stated that, objecting the said widening and deepening of the channel, petitioners made a representation to the second respondent stating that there is no need either to widen or deepen the channel and if at all there is any need to do so, they would do it themselves, but no action whatsoever had been taken on the said representation and the respondents, without notice, are proceeding with the deepening and widening works, affecting the lands of the petitioners. Hence, the present writ petition.

4. The fourth respondent filed counter affidavit denying the allegations made by the petitioners. It is stated that the department proposed to improve the drain to the required standards with the World Bank Aid, and that it is a time bound program. It is further stated that the said work is taken up with a view to complete the entire length of the drain in all respects, i.e., from Km.0.00 to 1.00 Km to serve both the drainage and irrigation purposes and that the department executed the drain only after the Mandal Surveyor demarcated the Government land, i.e. upto Km. 0.550, leaving only the remaining drain portion running through the patta lands. It is mainly contended in the counter that the department has excavated the drain upto 0.55 Km. only in the Government *poramboke* without affecting the lands of the petitioners.

5. When the respondents have taken steps to improve the drain to the required standards with a view to complete the entire length of the drain in all respects, to serve both drainage and irrigation purposes, and more so, when the department executed the drain only after demarcation of the Government land, upto Km. 0.550, leaving the remaining drain portion running through the patta lands, without affecting the lands of the petitioners, petitioners cannot complain the action of the respondents as illegal and arbitrary. The widening and deepening of the channel is a developmental program undertaken with the aid of the World Bank, which a decision taken in the larger interest of the ryots, and the same cannot be found fault with.

6. No direction as sought for by the petitioners can be given, for the action of the respondents in deepening and widening of the channel is being done without affecting the lands of the petitioners.

The writ petition is bereft of merit and is accordingly dismissed. No order as to costs.

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N.V. RAMANA, J

March 24, 2005

MRR

ASSISTANT REGISTRAR

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SECTION OFFICER

Copy to. –

1 *The District Collector, Eluru West Godavari,*
2 *The Superintending Engineer (Drainage) Irrigation Department Eluru, West Godavari District*
3 *The Executive Engineer (Constructions) Irrigation Department , Eluru, West Godavari District*

4 The Executive Engineer, (Drainage) irrigation Department
Bhimavaram, West Godavari District
5 The Chairman, Water Users Association
Varadarajapuram , Ganapavaram Mandal,
West Godavari District

6 Two C.C. s to the G.P. for Irrigation & Comm. Area Development,

High Court Buildings, Hyderabad (OUT)

7 Two C.D. Copies.

*Form-NIC-OGS/WP {**KCS**}*